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09/290,006	04/11/1999	WILLIAM PAUL WANKER	001	9354

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EXAMINER

PHAM, HUNG Q

ART UNIT	PAPER NUMBER
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2162

DATE MAILED: 11/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/290,006

Applicant(s)

WANKER, WILLIAM PAUL

Examiner

HUNG Q PHAM

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7,10-16,20-23,27,28,30 and 36-47 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7,10-16,20-23,27,28,30 and 36-47 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) <input type="checkbox"/> | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                 | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)              | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. Applicant cancelled claims 8, 17-19, 24-26, 29, 31-35, 48 and 50-55 in the amendment filed on 08/30/2004. The pending claims are 1-7, 10-16, 20-23, 27-28, 30 and 36-47.

### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 08/30/2004 has been entered.

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 1, 14, 36 and 39 have been considered but are moot in view of the new ground(s) of rejection.

### ***Drawings***

4. The informal drawings are not of sufficient quality to permit examination. Accordingly, replacement drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to this Office action. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct

any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action.

Applicant is given a TWO MONTH time period to submit new drawings in compliance with 37 CFR 1.81. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a). Failure to timely submit replacement drawing sheets will result in ABANDONMENT of the application.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. **Claims 1, 5, 10 and 36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

Claim 1 recites the limitation *the weighting factor* in the step *calculating a respective merchant data weight*. There is insufficient antecedent basis for this limitation in the claim (the claimed *the weighting factor* should be *the weighting factors* as defined in the step *entering a set of weighting factors*).

Claim 5 recites the limitation *the merchant data weight result* in the step requesting weighting factor. There is insufficient antecedent basis for this limitation in the claim.

Claim 10 recites the limitation *the ranking* in the claimed *means for applying screening factors*. There is insufficient antecedent basis for this limitation in the claim.

Claim 36 recites the limitation *the retrieved merchant information* in the claimed *multiplying a weighting factor*. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claims 1-3, 5-7, 10-13, 14-16, 20-23, 27-28, 30 and 36-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over BizRate [http://web.archive.org/web/19981205082910/http://www.bizrate.com/] in view of Geller et al. [USP 6,236,990 B1].**

Regarding claim 1, BizRate is an online service website that provides consumers with information of a product. As described at page 1 is an interface of BizRate for receiving queries, either by entering search criteria into the search box or browsing the Product Category, from consumers who are located at remote locations as the step of *receiving information related to a potential consumer purchase*. Every merchant listed in BizRate has been rated on ten dimension of service on the Web. These include: Price, Product Selection, Product Information, and Website Aesthetics... (BizRate, page 8), and the details of these dimensions are illustrated on pages 13 and 14. BizRate further discloses a Customized Rating option that allows a user to set his/her own weights for each of the ten aspects of shopping and get a personally scored and sorted list of

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merchants (BizRate, page 11). As seen, Price, Product Selection, Product Information, and Website Aesthetics... are *categories of merchant comparison information data*, and by using Customized Rating option; a user will *receive a plurality of merchant comparison information data for a plurality of merchants* to set his/her own weights as *weighting factors, the weighting factor corresponding to Price, Product Selection, Product Information, and Website Aesthetics...* as *the categories of merchant comparison information data*, and get a personally scored and sorted list of merchants as illustrated on pages 3-5 with a score adjacent to each merchant as *merchant aggregate score*. In short, the Customized Rating option performs the claimed *receiving a plurality of merchant comparison information data for a plurality of merchants capable of completing the potential consumer purchase, the merchant comparison information data for a merchant organized into a plurality of categories, entering a set of weighting factors, the weighting factor corresponding to the categories of merchant comparison information data, and ranking merchants based on the merchant aggregate score*. BizRate does not explicitly teach the steps of *calculating a respective merchant data weight resultant value by multiplying the weighting factor against the merchant comparison information data of the corresponding merchant data category, calculating an aggregate score for the merchant by summing the calculated merchant data weight resultant values*. Geller teaches a system and method that assists a user in selecting a product from multiple products (Geller, Abstract). The user is prompted to select a category. For the category selected, stored prompts are provided to the user, allowing the user to weigh the importance of each attribute (Geller, Col. 2, Lines 23-32). Attribute information of products includes name of

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a product, manufacturer, price, availability and other information (Geller, Col. 7, Lines 31-38). The provided prompts are questions relate to an attribute, and possible responses to a question describe two or more answers to a question, such as "Critical", "Very Important", "Fairly Important", "Not Very Important" or "Irrelevant", and may include a weight value for each possible answer. For example, "Critical" may have a weight of 4, "Very Important" may have a weight of 3, "Fairly Important" may have a weight of 2, "Not Very Important" may have a weight of 1 and "Irrelevant" may have a weight of 0 (Col. 7, Line 50-Col. 8, Lines 9). The weight for each attribute is multiplied by the evaluation rating for such attribute to produce an interim result. The sum of all such interim results for each product in the category is calculated to produce a product score (Geller, Col. 4, Lines 47-54). The product score is used to rank the product (Geller, Col. 8, Lines 35-40). As seen, obviously, the BizRate Customized Rating option can use the Geller procedure to calculate an interim result as *respective merchant data weight resultant value by multiplying the* weight of attributes: Price, Product Selection, Product Information, and Website Aesthetics... as *weighting factor against* the evaluation rating for such attribute as *the merchant comparison information data of the corresponding merchant data category*, and *aggregate score of the merchant* as illustrated on pages 3-5 is *calculated by summing* all interim results as *calculated merchant data weight resultant value*. Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the BizRate method by including the Geller procedure in order to calculate the average score for each merchant.



Regarding claim 10, BizRate is an online service website that provides consumers with information of a product. Page 1 is an interface of BizRate for receiving queries, either by entering search criteria into the search box or browsing the Product Category, from consumers who are located at remote locations as a *means for receiving a search query for a product*. By mouse clicking Apparel > Accessories for example, a consumer will receive a result of the product information and an overall rating relating to the specified product under category Apparel > Accessories as in page 3. In other words, page 3 illustrates a *means for retrieving from a database information on merchants offering to sell the product specified in the search query*. Every merchant listed in BizRate has been rated on ten dimension of service on the Web. These include: Price, Product Selection, Product Information, and Website Aesthetics... (BizRate, page 8), and the details of these dimensions are illustrated on pages 13 and 14. BizRate further discloses a Customized Rating option that allows a user to set his/her own weights for each of the ten aspects of shopping and get a personally scored and sorted list of merchants (BizRate, page 11). As seen, Price, Product Selection, Product Information, and Website Aesthetics... are *merchant comparison information data*, and by using Customized Rating option; a user will *retrieve from a database merchant comparison information relating to the specified product and the merchants offering the specified product* to set his/her own weights as *the weighting factor corresponding to merchant and product information*, and get a personally scored and sorted list of merchants as illustrated on pages 3-5 with a score adjacent to each merchant as *merchant aggregate value*. In short, the Customized Rating option performs the claimed *means for retrieving from a database*

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*merchant comparison information relating to the specified product and the merchants offering the specified product, means for entering weighting factors corresponding to merchant and product information, and means for generating a ranking the merchants based on the merchant aggregate value, and means for providing the ranking to a consumer.*

BizRate further discloses a shopping filter feature for filtering a list of merchants to only those that have the features and capabilities that meet the requirement of a customer, and a pull down menu to have the merchants ranked according to how they did on that dimension instead of the default Overall Rating such as Price, On-time Delivery (pages 10-11) as *means for applying screening factors to the retrieved merchant and product information to remove those merchants from the ranking which correspond to the screening criteria.* BizRate does not explicitly teach a *means for multiplying weighting factors against the corresponding retrieved merchant and product information; means for calculating a merchant aggregate value from the multiplying of the weighting factors against the corresponding merchant and product information.* Geller teaches a system and method that assists a user in selecting a product from multiple products (Geller, Abstract). The user is prompted to select a category. For the category selected, stored prompts are provided to the user, allowing the user to weigh the importance of each attribute (Geller, Col. 2, Lines 23-32). Attribute information of products includes name of a product, manufacturer, price, availability and other information (Geller, Col. 7, Lines 31-38). The provided prompts are questions relate to an attribute, and possible responses to a question describe two or more answers to a question, such as "Critical", "Very Important", "Fairly Important", "Not Very Important" or "Irrelevant", and may include a

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weight value for each possible answer. For example, "Critical" may have a weight of 4, "Very Important" may have a weight of 3, "Fairly Important" may have a weight of 2, "Not Very Important" may have a weight of 1 and "Irrelevant" may have a weight of 0 (Col. 7, Line 50-Col. 8, Lines 9). The weight for each attribute is multiplied by the evaluation rating for such attribute to produce an interim result. The sum of all such interim results for each product in the category is calculated to produce a product score (Geller, Col. 4, Lines 47-54). The product score is used to rank the product (Geller, Col. 8, Lines 35-40). As seen, obviously, the BizRate Customized Rating option can use the Geller procedure to calculate an interim result by *multiplying the* weight of attributes: Price, Product Selection, Product Information, and Website Aesthetics... as *weighting factor against* the evaluation rating for such attribute as *the corresponding retrieved merchant and product information*, and *merchant aggregate value* as illustrated on pages 3-5 is *calculated* by summing all interim results or *the multiplying of the weighting factors against the corresponding merchant and product information*. Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the BizRate method by including the Geller procedure in order to calculate the average score for each merchant.

Regarding claim 14, BizRate is an online service website that provides consumers with information of a product. As described at page 1 is an interface of BizRate for receiving queries, either by entering search criteria into the search box or browsing the Product Category, from consumers who are located at remote locations as

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the step of *receiving information related to a user specific product*. By mouse clicking Apparel > Accessories for example, a consumer will receive a result list of merchants, each merchant has *specific information about each merchant* as in page 3. In other words, page 3 illustrates the step of *retrieving a list of merchants from a database, wherein the list of merchants includes merchants offering the user specified product*. Every merchant listed in BizRate has been rated on ten dimension of service on the Web. These include: Price, Product Selection, Product Information, and Website Aesthetics... (BizRate, page 8), and the details of these dimensions are illustrated on pages 13 and 14. BizRate further discloses a Customized Rating option that allows a user to set his/her own weights for each of the ten aspects of shopping and get a personally scored and sorted list of merchants (BizRate, page 11). As seen, Price, Product Selection, Product Information, and Website Aesthetics... as detailed on pages 13 and 14 are *merchant specific information about the merchants in said list of merchants*, and by using Customized Rating option; a user can set his/her own weights as *the weighting factor*, and get a personally scored and sorted list of merchants as illustrated on pages 3-5 with a calculated score adjacent to each merchant as *calculated merchant aggregate score*. In short, the Customized Rating option performs the claimed *retrieving merchant specific information about the merchants in said list of merchants; entering a set of weighting factors; ranking said list of merchants carrying the user specified product based on the merchant aggregate scores*. BizRate does not explicitly teach Price, Product Selection, Product Information, and Website Aesthetics... as *merchant specific information including a plurality of merchant data entry values, and applying weighting factors to said merchant*

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*specific information, said application including: for a plurality of data entry values, multiplying at the data entry value by at least one weighting factor from set of weighting factors to calculate a merchant data weight resultant value; summing a plurality of merchant data weight resultant values to calculate a merchant aggregate score.* Geller teaches a system and method that assists a user in selecting a product from multiple products (Geller, Abstract). The user is prompted to select a category. For the category selected, stored prompts are provided to the user, allowing the user to weigh the importance of each attribute (Geller, Col. 2, Lines 23-32). Attribute information of products includes name of a product, manufacturer, price, availability and other information (Geller, Col. 7, Lines 31-38). The provided prompts are questions relate to an attribute, and possible responses to a question describe two or more answers to a question, such as "Critical", "Very Important", "Fairly Important", "Not Very Important" or "Irrelevant", and may include a weight value for each possible answer. For example, "Critical" may have a weight of 4, "Very Important" may have a weight of 3, "Fairly Important" may have a weight of 2, "Not Very Important" may have a weight of 1 and "Irrelevant" may have a weight of 0 (Geller, Col. 7, Line 50-Col. 8, Lines 9). The weight for each attribute is multiplied by the evaluation rating for such attribute to produce an interim result. The sum of all such interim results for each product in the category is calculated to produce a product score (Geller, Col. 4, Lines 47-54). The product score is used to rank the product (Geller, Col. 8, Lines 35-40). As seen, obviously, the BizRate Customized Rating option can use the Geller procedure by including evaluation rating as *merchant data entry value* for Price, Product Selection, Product Information, and Website

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Aesthetics... as *merchant specific information* to calculate an interim result as *merchant data weight resultant value* by *multiplying the* weight of attributes: Price, Product Selection, Product Information, and Website Aesthetics... as *weighting factor against* the evaluation rating for such attribute as *merchant data entry value*, and *merchant aggregate score* as illustrated on pages 3-5 is *calculated by summing* all interim results as *merchant data weight resultant values*. Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the BizRate method by including the Geller procedure in order to calculate the average score for each merchant.

Regarding claim 36, BizRate is an online service website that provides consumers with information of a product. Page 1 is an interface of BizRate for receiving queries, either by entering search criteria into the search box or browsing the Product Category, from consumers who are located at remote locations. By mouse clicking Apparel > Accessories for example, a consumer will receive a result of the product information and an overall rating relating to the specified product under category Apparel > Accessories as in page 3 as the step of *entering a query specifying a product or service*. Every merchant listed in BizRate has been rated on ten dimension of service on the Web. These include: Price, Product Selection, Product Information, and Website Aesthetics... (BizRate, page 8), and the details of these dimensions are illustrated on pages 13 and 14 with a numerical value for the weight. BizRate further discloses a Customized Rating option that allows a user to set his/her own weights for each of the

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ten aspects of shopping and get a personally scored and sorted list of merchants by selecting Customized Rating at the box Ranked By (BizRate, page 11). As seen, Price, Product Selection, Product Information, and Website Aesthetics... are *categories of merchant comparison information*, the weights for Price, Product Selection, Product Information, and Website Aesthetics... as *a set of weighting factors* are entered, the weight or *weighting factor is entered as a numerical value and represents the relative importance given the corresponding merchant comparison information in ranking the merchants*, and by using Customized Rating option; a user will *retrieve merchant comparison information data from a database, the retrieved merchant comparison information data corresponding to the entered query* to set his/her own weights, and get a personally scored and sorted list of merchants as illustrated on pages 3-5 with a calculated score adjacent to each merchant as *calculated merchant overall score*. In short, the Customized Rating option performs the claimed *entering a set of weighting factors, the weighting factors corresponding to categories of merchant comparison information, wherein the weighting factor is entered as a numerical value and represents the relative importance given the corresponding merchant comparison information in ranking the merchants, retrieving merchant comparison information data from a database, the retrieved merchant comparison information data corresponding to the entered query, ranking the merchants according to the merchant overall score*. BizRate does not explicitly teach the step of *calculating a merchant scored by multiplying a weighting factor by a corresponding data value from the retrieved merchant information to calculate a weighted category score, summing the weighted category scores to calculate a merchant overall score*. Geller teaches

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a system and method that assists a user in selecting a product from multiple products (Geller, Abstract). The user is prompted to select a category. For the category selected, stored prompts are provided to the user, allowing the user to weigh the importance of each attribute (Geller, Col. 2, Lines 23-32). Attribute information of products includes name of a product, manufacturer, price, availability and other information (Geller, Col. 7, Lines 31-38). The provided prompts are questions relate to an attribute, and possible responses to a question describe two or more answers to a question, such as "Critical", "Very Important", "Fairly Important", "Not Very Important" or "Irrelevant", and may include a weight value for each possible answer. For example, "Critical" may have a weight of 4, "Very Important" may have a weight of 3, "Fairly Important" may have a weight of 2, "Not Very Important" may have a weight of 1 and "Irrelevant" may have a weight of 0 (Geller, Col. 7, Line 50-Col. 8, Lines 9). The weight for each attribute is multiplied by the evaluation rating for such attribute to produce an interim result. The sum of all such interim results for each product in the category is calculated to produce a product score (Geller, Col. 4, Lines 47-54). The product score is used to rank the product (Geller, Col. 8, Lines 35-40). As seen, obviously, the BizRate Customized Rating option can use the Geller procedure to calculate an interim result as *weighted category score* by *multiplying the* weight of attributes: Price, Product Selection, Product Information, and Website Aesthetics... as *weighting factor by* the evaluation rating for such attribute as *corresponding data value from the retrieved merchant information*, and *merchant overall score* as illustrated on pages 3-5 is *calculated by summing* all interim results as *weighted category scores*. Therefore, it would have been obvious for one of



ordinary skill in the art at the time the invention was made to modify the BizRate method by including the Geller procedure in order to calculate the average score for each merchant.

Regarding claim 39, BizRate is an online service website that provides consumers with information of a product. Page 1 is an interface of BizRate for receiving queries, either by entering search criteria into the search box or browsing the Product Category, from consumers who are located at remote locations. By mouse clicking Apparel > Accessories for example, a consumer will receive a result of the product information and an overall rating relating to the specified product under category Apparel > Accessories as in page 3 as the step of *entering a query specifying a product or service*. Every merchant listed in BizRate has been rated on ten dimension of service on the Web. These include: Price, Product Selection, Product Information, and Website Aesthetics... (BizRate, page 8), and the details of these dimensions are illustrated on pages 13 and 14 with a numerical value for the weight. BizRate further discloses a Customized Rating option that allows a user to set his/her own weights for each of the ten aspects of shopping and get a personally scored and sorted list of merchants by selecting Customized Rating at the box Ranked By (BizRate, page 11). As seen, Price, Product Selection, Product Information, and Website Aesthetics... are *merchant comparison information*, the weights for Price, Product Selection, Product Information, and Website Aesthetics... as *weighting factors* are selected, and by using Customized Rating option; a user will *retrieve merchant comparison information from a database, the*

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*retrieved merchant comparison information corresponding to the entered query* to set his/her own weights, and get a personally scored and sorted list of merchants as illustrated on pages 3-5 with a calculated score adjacent to each merchant as *merchant score*. In short, the Customized Rating option performs the claimed *selecting a weighting factor, the weighting factors corresponding to merchant comparison information, retrieving merchant comparison information from a database, the retrieved merchant comparison information corresponding to the entered query, ranking the merchant according to the calculated merchant score*. BizRate does not explicitly teach the steps of *calculating a merchant score by multiplying the selected weighting factor by a data value from the retrieved merchant information to calculate a weighted category score, and summing the weighted category scores to calculate the merchant score*. Geller teaches a system and method that assists a user in selecting a product from multiple products (Geller, Abstract). The user is prompted to select a category. For the category selected, stored prompts are provided to the user, allowing the user to weigh the importance of each attribute (Geller, Col. 2, Lines 23-32). Attribute information of products includes name of a product, manufacturer, price, availability and other information (Geller, Col. 7, Lines 31-38). The provided prompts are questions relate to an attribute, and possible responses to a question describe two or more answers to a question, such as "Critical", "Very Important", "Fairly Important", "Not Very Important" or "Irrelevant", and may include a weight value for each possible answer. For example, "Critical" may have a weight of 4, "Very Important" may have a weight of 3, "Fairly Important" may have a weight of 2, "Not Very Important" may have a weight of 1 and "Irrelevant" may have a weight of 0 (Geller, Col. 7, Line 50-Col. 8, Lines

9). The weight for each attribute is multiplied by the evaluation rating for such attribute to produce an interim result. The sum of all such interim results for each product in the category is calculated to produce a product score (Geller, Col. 4, Lines 47-54). The product score is used to rank the product (Geller, Col. 8, Lines 35-40). As seen, obviously, the BizRate Customized Rating option can use the Geller procedure to calculate an interim result as *weighted category score* by *multiplying the* weight of attributes: Price, Product Selection, Product Information, and Website Aesthetics... as *selected weighting factor* by the evaluation rating for such attribute as *data value from the retrieved merchant information*, and *merchant score* as illustrated on pages 3-5 is *calculated by summing* all interim results as *weighted category scores*. Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the BizRate method by including the Geller procedure in order to calculate the average score for each merchant.

Regarding claim 2, BizRate and Geller, in combination, teach all of the claimed subject matter as discussed above with respect to claim 1, BizRate further discloses the step of *requesting information from a consumer relating to a potential consumer purchase* (BizRate, Search for a Particular Merchant or Browse by Product Category, page 1).

Regarding claim 3, BizRate and Geller, in combination, teach all of the claimed subject matter as discussed above with respect to claim 2, BizRate further discloses the

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step of *providing the ranking to the consumer in response to the consumer's response to the request for information relating to a potential consumer purchase* (BizRate, pages 3-4).

Regarding claim 5, BizRate and Geller, in combination, teach all of the claimed subject matter as discussed above with respect to claim 1, BizRate further discloses the step of *requesting weighting factor information from a consumer; and using the consumer entered weighting factor information in the calculation of the merchant data weight result* (BizRate, page 11 and 3-5).

Regarding claim 6, BizRate and Geller, in combination, teach all of the claimed subject matter as discussed above with respect to claim 1, Geller further discloses *the weighting factors sum to a predetermined value* (Geller, Col. 4, Lines 43-54).

Regarding claim 7, BizRate and Geller, in combination, teach all of the claimed subject matter as discussed above with respect to claim 5, Geller further discloses *the weighting factors are balanced such that the weighting factors sum to a predetermined value* (Geller, Col. 4, Lines 43-54).

Regarding claim 11, BizRate and Geller, in combination, teach all of the claimed subject matter as discussed above with respect to claim 10, BizRate further discloses *the means for presenting the weighting factors to the consumer* (BizRate, pages 13-14), *means for providing the consumer with the ability to specify weights associated with items of*

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*merchant and product information* (BizRate, page 11), *and means for using the weights in generating the ranking of merchants* (BizRate, pages 3-5).

Regarding claim 12, BizRate and Geller, in combination, teach all of the claimed subject matter as discussed above with respect to claim 10, BizRate further discloses the *means for calculating a rating of the merchant's offerings of the specified product; and means for displaying the rating of the merchant's offerings* (BizRate, pages 3-5).

Regarding claim 13, BizRate and Geller, in combination, teach all of the claimed subject matter as discussed above with respect to claim 12, BizRate further discloses *the rating is based on the relative difference between the aggregate scores of different merchants* (BizRate, pages 3-5).

Regarding claim 15, BizRate and Geller, in combination, teach all of the claimed subject matter as discussed above with respect to claim 14, BizRate further discloses *the weighting factors are chosen by the user from a preset grouping of weighting factors* (BizRate, pages 13-14).

Regarding claim 16, BizRate and Geller, in combination, teach all of the claimed subject matter as discussed above with respect to claim 14, BizRate further discloses *the weighting factors are entered by the user* (BizRate, page 11).

Regarding claim 20, BizRate and Geller, in combination, teach all of the claimed subject matter as discussed above with respect to claim 14, BizRate further discloses the step of *eliminating those merchants from the ranking where the merchant specific information is incomplete for that merchant* (BizRate, page 11).

Regarding claim 21, BizRate and Geller, in combination, teach all of the claimed subject matter as discussed above with respect to claim 20, BizRate further discloses *the elimination occurs only for merchants whose merchant specific data is incomplete as compared to a predefined screening criteria* (BizRate, page 11).

Regarding claim 22, BizRate and Geller, in combination, teach all of the claimed subject matter as discussed above with respect to claim 21, BizRate further discloses *the predefined screening criteria is received from the user* (BizRate, page 11).

Regarding claim 23, BizRate and Geller, in combination, teach all of the claimed subject matter as discussed above with respect to claim 14, BizRate further discloses the step of *excluding from the ranking comparison information items not common to all merchants in the ranking* (BizRate, page 11).

Regarding claim 27, BizRate and Geller, in combination, teach all of the claimed subject matter as discussed above with respect to claim 14, BizRate further discloses the step of *presenting the user with a list of merchant information categories; receiving user*

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*selected merchant information categories; and ranking merchants based upon the selected information categories* (BizRate, page 11 and 13-14).

Regarding claim 28, BizRate and Geller, in combination, teach all of the claimed subject matter as discussed above with respect to claim 24, BizRate further discloses the step of *presenting the user with a list of merchant information categories; receiving user selected merchant information categories; and ranking merchants based upon the selected information categories* (BizRate, page 11 and 13-14).

Regarding claim 30, BizRate and Geller, in combination, teach all of the claimed subject matter as discussed above with respect to claim 14, BizRate further discloses the step of *receiving category weighting factors from the user, wherein category weighting factors are applied to all comparison information corresponding to the category in the merchant specific information; and ranking merchants according to the received category weighting factors* (BizRate, page 1 and 13-14).

Regarding claims 37 and 40, BizRate and Geller, in combination, teach all of the claimed subject matter as discussed above with respect to claims 36 and 39, BizRate.com further discloses the step of *entering the weighting factors occurs prior to entering the query* (BizRate, page 3).

Regarding claims 38 and 41, BizRate and Geller, in combination, teach all of the claimed subject matter as discussed above with respect to claims 36 and 39, BizRate further discloses the step of *entering the weighting factors is performed by a user, the user also entering the query* (BizRate, page 11).

Regarding claim 42, BizRate and Geller, in combination, teach all of the claimed subject matter as discussed above with respect to claim 39, BizRate further discloses *the weighting factors is selecting from a list of weighting factors* (BizRate, pages 13-14).

Regarding claim 43, BizRate and Geller, in combination, teach all of the claimed subject matter as discussed above with respect to claim 42, BizRate further discloses *the list of weighting factors corresponds to the merchant information* (BizRate, pages 13-14).

Regarding claim 44, BizRate and Geller, in combination, teach all of the claimed subject matter as discussed above with respect to claim 39, BizRate further discloses *the selection is made from a drop down list of weighting factors* (BizRate, pages 13-14).

Regarding claim 45, BizRate and Geller, in combination, teach all of the claimed subject matter as discussed above with respect to claim 42, BizRate further discloses *the user may modify the selected weighting factors to enter a weighting factor not included in the list of weighting factors* (BizRate, page 11).



Regarding claim 46, BizRate and Geller, in combination, teach all of the claimed subject matter as discussed above with respect to claim 42, BizRate further discloses *the list of weighting factors is entered by a consumer* (BizRate, page 10).

Regarding claim 47, BizRate and Geller, in combination, teach all of the claimed subject matter as discussed above with respect to claim 42, BizRate further discloses *the list of weighting factors is selected from a group of lists of weighting factors* (BizRate, pages 13-14).

**9. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over BizRate [<http://web.archive.org/web/19981205082910/http://www.bizrate.com/>] in view of Geller et al. [USP 6,236,990 B1] and Guay [USP 6,321,218 B1].**

Regarding to claim 4, BizRate and Geller, in combination, teach all of the claimed subject matter as discussed above with respect to claim 3, but fail to disclose the step *excluding a merchant from the ranking when the merchant receives an aggregate score below said specified threshold*. Guay teaches the technique of excluding ranked query data from the ranking when the ranked data below a specified threshold (Guay, Col. 4, lines 40-55). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the combined method of BizRate and Geller by

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including a threshold value for excluding the unsatisfied data in order to narrow down the search result.

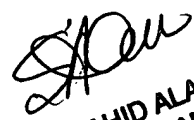
**Conclusion**

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUNG Q PHAM whose telephone number is 571-272-4040. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JOHN E BREENE can be reached on 571-272-4107. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Examiner Hung Pham  
November 2, 2004

  
SHAHID ALAM  
PRIMARY EXAMINER